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Review of *Why We Can't Have Nice Things: Social Media's Influence on Fashion, Ethics, and Property* by Minh-ha T. Pham (Duke University Press)

by Elizabeth Verklan | Book Reviews, Issue 13.1 (Spring 2024)

ABSTRACT In her second book, *Why We Can't Have Nice Things: Social Media's Influence on Fashion, Ethics, and Property*, Minh-ha T. Pham continues her examination of fashion's digital labors, by analyzing what she terms crowdsourced intellectual property (IP) regulation. Pham argues that crowdsourced IP regulation follows a script that reaffirms the racial and class hierarchies that govern global fashion. A process that occurs across social media platforms, crowdsourced IP regulation does not actually adjudicate theft or ownership, but instead marks a site of struggle wherein the right to copy is publicly forged via commonsense, racialized ideas about who or what a "copycat" looks like. Pham explores this process through several case studies, as well as through the history of intellectual property within the fashion industry in the United States. Pham concludes her book with some reflections regarding the possibility of ethical fashion amidst a deeply unethical industry.

KEYWORDS digital, fashion, intellectual property, labor, race, social media

Why We Can't Have Nice Things: Social Media's Influence on Fashion, Ethics, and Property. By Minh-ha T. Pham. Durham: Duke University Press, 2022. 176pp. (Paperback). ISBN 978-1-4780-1861-2. $23.95.

In her second book, *Why We Can't Have Nice Things: Social Media's Influence on Fashion, Ethics, and Property*, Minh-ha T. Pham continues her examination of

fashion's digital labors, by analyzing crowdsourced intellectual property (IP) regulation.

As Pham tells us, crowdsourced IP regulation refers to "the everyday social media activities that emerge around issues of fashion creativity and copying," and it has become a standard practice within the global fashion industry (3). According to Pham, crowdsourced IP regulation follows a script that reaffirms the racial and class hierarchies that govern global fashion. Pham provides numerous examples of crowdsourced IP regulation, however her opening case study illustrates the norms quite well. In 2015, the Vancouver-based, boutique clothing brand Granted disclosed on their social media channels that they had been "copied" by mass fashion retailer Forever 21. Granted claimed that Forever 21 was selling a sweater that looked strikingly similar to their own design, yet selling the "knock-off" for a mere $40 (Granted's own item retailed between $200–$350). Rather than contacting lawyers, Granted posted to their social media, asking followers to "help us take a stand" and to "share this [social media post] with your friends" (1). Within twenty-four hours, "news about the sweaters gained wider television, radio, and print media coverage and . . . more social media activity in the form of shares, likes, comments, and tweets," including from celebrities whose own social media followings are in the hundreds of thousands (2). In sum, the brand's post went viral.

Amidst this, many noted that Granted's sweater bore a marked resemblance to the hand-knit Cowichan sweaters made for generations by the Coast Salish women of Vancouver Island. However, this similarity was not the subject of mass media attention or social media scrutiny; on the contrary, Granted was lauded as the victim of theft (by Forever 21), not the Coast Salish women. Herein lies the true purpose of crowd sourced IP regulation for Pham: securing the informal copy rights of elite fashion brands over and against those whom such brands regularly and routinely copy (in this instance and many others, Indigenous people). In this way, crowdsourced IP regulation ensures that the right to copy is protected for

elite fashion brands (most especially those of the global north), while most everyone else is left vulnerable to outright theft. Crowdsourced IP regulation undertakes important race work then in addition to socially reproductive work, as the racial hierarchies that constitute the global fashion industry are reaffirmed.

Pham is quick to inform her reader that unlike other creative industries, such as music or literature, fashion occupies an ambiguous area of the law when it comes to intellectual property. For instance, in the United States, fashion is not protected under existing copyright statutes. As Pham outlines, this is the impetus for crowdsourced IP protection, because "what the law can't or won't do, social media users are doing quite effectively" (10). Similar to Granted, fashion brands regularly encourage their social media followers to participate in the regulation of their IP, because brands that "actively encourage . . . crowdsourced regulation often gain more in cultural and commercial value than those that attempt to resolve these disputes through legal channels" (11). Indeed, enabled by an ethos of social responsibility and ethical consumerism, social media users take up the unwaged and informal labor of crowdsourced IP protection and in turn, perform work that actively shapes "market competition, market hierarchies, and market outcomes" (22). Because this work—and Pham argues that it is, in fact, work—is ostensibly undertaken by people without legal expertise in an area of the law that is itself ambiguous, actual legal damages or rights are rarely awarded or settled. Rather, the assumptions and norms that guide these cases are themselves the object of Pham's scrutiny, because they reveal "a racialized commonsense about the ethical basis of IP protection in general and fashion IP in particular, about public/heritage resources and private property, about Asians and creativity, and about the moral virtues of elite markets" (25). In sum, crowdsourced IP regulation does not actually adjudicate theft or ownership, but instead marks a site of struggle wherein the right to copy is publicly forged via commonsense, racialized ideas about who or what a "copycat" looks like.

Pham pursues her analysis across four chapters. Chapter one traces the origins of fashion's IP disputes, and outlines the ways in which copying has always been a vital part of this industry's profit engine. Pham evidences how contemporary understandings of fashion ethics originate in corporate lobbying efforts to secure corporate copy rights. In chapter two, Pham examines how fashion IP regulation is both a civilizing and racial project. Examining the "Asian fashion copycat," Pham asserts that while this figure contains aspects unique to a digital environment, it "derives from deeply rooted ideas about . . . Asians' technical superiority and . . . their cultural and ethical inferiority" (24). Pham argues that this figure circulates throughout social media in discussions about fashion copying and counterfeiting, and that, "the Asian copycat is ethical fashion's quintessential racial other" (24).

Pham pursues a different line of inquiry in her last two chapters, examining instances wherein social media users flipped the script of crowdsourced IP regulation, inverting fashion's hierarchies if only momentarily. In chapter three, Pham examines the 2016 case of the Thai "rainbow bag," copied by Parisian luxury brand Balenciaga. As Pham argues, the case bears consideration for many reasons, most especially because the hashtag employed by the Thai social media users "effectively draws payment from Balenciaga (in the forms of attention and information capital) for its unauthorized and uncredited use" of the Thai design (24). In chapter four, Pham examines the wildly popular Instagram account Diet Prada, run by fashion insiders Tony Liu and Lindsey Shuyler, and argues that "Diet Prada's refusal of mainstream ethical frameworks, logics, and niceties . . . reflects an alternative—but not perfect—value system for assessing the problem of fashion copycatting" (25). Pham concludes her book with some reflections regarding the possibility of ethical fashion amidst a deeply unethical industry.

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Elizabeth Verklan is an Associate Professor in women, gender, and sexuality studies at Cottey College. Dr. Verklan's work has been published in *Lateral*, *Feminist Formations*, and the *Feminist Review*, among others. Her book, *Seeing Labor* (under contract with the University of Illinois Press), examines representations of fashion's labors across media in the United States.

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